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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,959	10/28/2003	Thomas P. Naughton JR.	C1012.70000US00	4417

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WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

EXAMINER

MACARTHUR, VICTOR L

ART UNIT PAPER NUMBER

3679

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,959	NAUGHTON, THOMAS P.	
	Examiner	Art Unit	
	Victor MacArthur	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 23-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/28/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

cc

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on 8/24/2005 is acknowledged.

Claims 23-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 8/24/2005.

Claim Objections

Claims 1, 8-10, 12 and 19-20 are objected to because of the following informalities:

- Claim 1 functionally recites the "connecting rod" and "unit" such that they do not constitute positively recited structure but rather elements only **intended to be used** with the "clamp" during "fire testing" (emphasis added). Dependant claims 8-10 positively recite the above-mentioned structure. The applicant should either amend claim 1 to positively recite the structure or amend the dependent claims to conform the intended use language of claim 1. For purposes of examination, the examiner has considered the dependent claims without combination.
- Claims 12 and 19-20 are similarly objected to.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-15 and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Takizawa (U.S. Patent 5,116,193).

Claim 1. Takizawa discloses (fig.5) a clamp (12), the clamp comprising: an outer surface (outer surface of 12), first (left end of 12) and second (right end of 12) ends and a through-hole (hollow portion of 12) provided between the first and second ends constructed and arranged to receive a rod; wherein the clamp is adapted to substantially center the rod within a hole in a unit through which the rod is inserted (in as much as the applicant's clamp is so adapted).

Furthermore, the clamp is fully capable of meeting the preamble limitation of being intended for use in connecting a rod to a unit for use in fire spread testing of the unit.

Claim 2. Takizawa discloses the clamp of claim 1, wherein the outer surface of the clamp includes a tapered portion (tapered portion of 12) converging toward one of the ends (right end).

Claim 3. Takizawa discloses the clamp of claim 2, wherein the through-hole has a diameter and the tapered portion converges toward one of the ends to **substantially** (but not exactly) the same diameter as the through-hole.

Claim 4. Takizawa discloses the clamp of claim 2, wherein the tapered portion of the clamp includes a frustoconical shape (frustoconical shape of 12).

Art Unit: 3679

Claim 6. Takizawa discloses the clamp of claim 2, wherein the through-hole and tapered portion of the clamp are substantially centered with respect to one another.

Claim 7. Takizawa discloses the clamp of claim 2, wherein at least a part of the tapered portion of the clamp is adapted (via its tapered shape) to fit within a hole of a unit into which a rod is inserted to substantially center a rod within the hole of the unit.

Claim 8. Takizawa discloses the clamp of claim 1, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a rod wherein the through-hole has a cross-section that is substantially the same size as the rod.

Claim 9. Takizawa discloses the clamp of claim 8, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a hole in a unit wherein the hole in the unit has a cross-section that is greater than the cross-sections of the through-hole and rod.

Claim 10. Takizawa discloses the clamp of claim 9, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a hole in a unit wherein the outer surface of the clamp includes a tapered portion converging toward one of the ends, the end having a cross-section of a size between the cross-section of the hole in the unit and the cross-sections of the through-hole and rod.

Claim 11. Takizawa discloses the clamp of claim 1, further comprising: an opening (122) provided in the outer surface, the opening extending to and intersecting the through-hole, wherein the clamp may be secured to a rod at a desired position by providing a fastener in the opening.

Art Unit: 3679

Claim 12. Takizawa discloses (fig.5) a clamp (12), the clamp comprising: an outer surface (outer surface of 12), first (left end of 12) and second (right end of 12) ends and a through-hole (hollow portion of 12) provided between the first and second ends constructed and arranged to receive a rod; wherein the clamp is adapted to substantially block a hole in the unit through which the rod is inserted (in as much as the applicant's clamp is so adapted). Furthermore, the clamp is fully capable of meeting the preamble limitation of being intended for use in connecting a rod to a unit for use in fire spread testing of the unit.

Claim 13. Takizawa discloses the clamp of claim 12, wherein the outer surface of the clamp includes a tapered portion (tapered portion of 12) converging toward one of the ends (right end).

Claim 14. Takizawa discloses the clamp of claim 13, wherein the through-hole has a diameter and the tapered portion converges toward one of the ends to **substantially** (but not exactly) the same diameter as the through-hole.

Claim 15. Takizawa discloses the clamp of claim 13, wherein the tapered portion of the clamp includes a frustoconical shape (frustoconical shape of 12).

Claim 17. Takizawa discloses the clamp of claim 13, wherein the through-hole and tapered portion of the clamp are substantially centered with respect to one another.

Claim 18. Takizawa discloses the clamp of claim 13, wherein at least a part of the tapered portion of the clamp is adapted (via its tapered shape) to fit within a hole of a unit into which a rod is inserted to substantially center a rod within the hole of the unit.

Art Unit: 3679

Claim 19. Takizawa discloses the clamp of claim 12, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a rod wherein the through-hole has a cross-section that is substantially the same size as the rod.

Claim 20. Takizawa discloses the clamp of claim 19, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a hole in a unit wherein the hole in the unit has a cross-section that is greater than the cross-sections of the through-hole and rod.

Claim 21. Takizawa discloses the clamp of claim 20, wherein the clamp is fully capable of meeting the functional limitation of being intended to be used with a hole in a unit wherein the outer surface of the clamp includes a tapered portion converging toward one of the ends, the end having a cross-section of a size between the cross-section of the hole in the unit and the cross-sections of the through-hole and rod.

Claim 22. Takizawa discloses the clamp of claim 12, further comprising: an opening (122) provided in the outer surface, the opening extending to and intersecting the through-hole, wherein the clamp may be secured to a rod at a desired position by providing a fastener in the opening.

Claims 1, 2, 5, 12, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernosky (U.S. Patent 4,958,796).

Claim 1. Bernosky discloses (figs. 1, 2a) a clamp (10), the clamp comprising: an outer surface (outer surface of 10), first (top end of 10) and second (bottom end of 10) ends and a through-hole (20) provided between the first and second ends constructed and arranged to

Art Unit: 3679

receive a rod; wherein the clamp is adapted to substantially center the rod within a hole in a unit through which the rod is inserted (in as much as the applicant's clamp is so adapted).

Furthermore, the clamp is fully capable of meeting the preamble limitation of being intended for use in connecting a rod to a unit for use in fire spread testing of the unit.

Claim 2. Bernosky discloses the clamp of claim 1, wherein the outer surface of the clamp includes a tapered portion (tapered portion of 10) converging toward one of the ends (bottom end).

Claim 5. Bernosky discloses the clamp of claim 2, wherein the tapered portion of the clamp has a varied angle of slope (at curved tapered portions of 10).

Claim 12. Bernosky discloses (figs. 1, 2a) a clamp (10), the clamp comprising: an outer surface (outer surface of 10), first (top end of 10) and second (bottom end of 12) ends and a through-hole (22) provided between the first and second ends constructed and arranged to receive a rod; wherein the clamp is adapted to substantially block a hole in the unit through which the rod is inserted (in as much as the applicant's clamp is so adapted). Furthermore, the clamp is fully capable of meeting the preamble limitation of being intended for use in connecting a rod to a unit for use in fire spread testing of the unit.

Claim 13. Bernosky discloses the clamp of claim 12, wherein the outer surface of the clamp includes a tapered portion (tapered portion of 10) converging toward one of the ends (bottom end).

Claim 16. Bernosky discloses the clamp of claim 13, wherein the tapered portion of the clamp has a varied angle of slope (at curved tapered portions of 10).

Art Unit: 3679

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to clamps:

McConnell U.S. Patent 4,576,501

Andrews U.S. Patent 4,896,892

Ozagir U.S. Patent 4,972,545

Aulie U.S. Patent 5,139,524

Furnish U.S. Patent 5,489,290

Muller U.S. Patent 6,142,485

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085.

The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 3679

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

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October 20, 2005

Daniel P. Stodola

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3607